

ILLINOIS POLLUTION CONTROL BOARD
December 7, 2006

KIBLER DEVELOPMENT CORPORATION)
and MARION RIDGE LANDFILL, INC.,)
)
Petitioners,)
)
v.) PCB 07-43
) (Permit Appeal - Land)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by N.J. Melas):

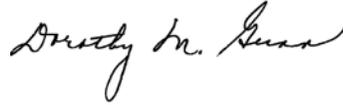
On November 20, 2006, Kibler Development Corporation and Marion Ridge Landfill, Inc. (petitioners) timely filed a petition asking the Board to review an October 18, 2006, determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2004); 35 Ill. Adm. Code 105.206(a). The Agency denied the petitioners' application to modify the permit currently effective at the Marion County Landfill, in Williamson County. The petitioners appeal on the grounds that Agency's decision is arbitrary and unreasonable and lacks any basis in law or fact, the Agency's denial letter, dated October 18, 2006, is vague and unintelligible, and the Agency has failed to identify any provision of the Act or Board regulations that would be violated by the requested modification. The petition meets the content requirements of 35 Ill. Adm. Code 105.210. The Board accepts the petition for hearing.

The petitioners have the burden of proof. 415 ILCS 5/40(a)(1) (2004); *see also* 35 Ill. Adm. Code 105.112(a). Hearings "will be based exclusively on the record before the Agency at the time the permit or decision was issued." 35 Ill. Adm. Code 105.214(a). Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2004)), which only the petitioners may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, the petitioners "may deem the permit issued." 415 ILCS 5/40(a)(2) (2004). Currently, the decision deadline is March 20, 2007 (the 120th day after November 20, 2006). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for March 15, 2007.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by December 20, 2006, which is 30 days after the petitioners filed the petition. 35 Ill. Adm. Code 105.212(a). If the Agency wishes to seek additional time to file the record, it must file a request for extension before the date on which the record is due to be filed. 35 Ill. Adm. Code 105.116. The record must comply with the content requirements of 35 Ill. Adm. Code 105.212(b).

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on December 7, 2006, by a vote of 4-0.

A handwritten signature in cursive script, appearing to read "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board